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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,391	07/18/2005	Werner Jacob	JACOB W 2 PCT	6061
25889	7590	12/02/2008	EXAMINER	
COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			BINDA, GREGORY JOHN	
		ART UNIT	PAPER NUMBER	
		3679		
		MAIL DATE	DELIVERY MODE	
		12/02/2008	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/524,391	JACOB, WERNER	
	Examiner	Art Unit	
	Greg Binda	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 October 2008.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 2-11 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

2. Claims 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Fisher, US 3,714,797. Fig. 2 shows a drive shaft assembly having a longitudinal shaft for use in automobiles having all wheel drive comprising:

a gearbox-side sliding articulation comprising a first homokinetic ball joint having a first inner hub 10; a first outer hub 11 at least partially surrounding the first inner hub and a first cage 24 for guiding balls 12;

a differential-side sliding articulation comprising a second homokinetic ball joint having a second inner hub 10; a second outer hub 11 at least partially surrounding the second inner hub and a second cage 24 for guiding balls 12;

a shaft segment 43 connected with the first and second outer hubs so as to rotate together; wherein a journal 18 of a gearbox output shaft having a plug-in tooth system is directly connected to the first inner hub and a journal 18 of a differential input shaft having a plug-in tooth system is directly connected to the second inner hub, and

wherein each of the first and second inner hubs has a respective central bore 17 provided with a plug-in connection 5 (see “splined connection” at col. 2, line 62) to connect the longitudinal shaft for integral rotation and to center the longitudinal shaft on the journals of the gearbox output shaft and the differential input shaft, respectively.

3. Claims 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Schreiber, US 4,892,433. The figure shows a drive shaft assembly having a longitudinal shaft for use in automobiles having all wheel drive comprising:

a gearbox-side articulation 4 comprising a first homokinetic ball joint having a first inner hub; a first outer hub 9 at least partially surrounding the first inner hub and a first cage for guiding balls;

a differential-side sliding articulation 5 comprising a second homokinetic ball joint having a second inner hub; a second outer hub 10 at least partially surrounding the second inner hub and a second cage for guiding balls;

a shaft segment 1 connected with the first and second outer hubs so as to rotate together; wherein a journal 6 of a gearbox output shaft having a plug-in tooth system is directly connected to the first inner hub and a journal 7 of a differential input shaft having a plug-in tooth system is directly connected to the second inner hub, and

wherein each of the first and second inner hubs has a respective central bore provided with a plug-in connection to connect the longitudinal shaft for integral rotation and to center the longitudinal shaft on the journals of the gearbox output shaft and the differential input shaft, respectively.

Claim Rejections - 35 USC § 103

4. Claims 2-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Fisher and Schreiber. Each of Fisher and Schreiber shows a drive shaft assembly having a first/gear-box side articulation and a second/differential-side articulation having all the limitations of

the claims but neither Fisher nor Schreiber shows a third/central articulation. However, it would have been obvious at the time of applicant's invention to modify the drive shaft assembly of any one of Fisher and Schreiber to include a third/central articulation, since such a modification would have involved a mere duplication of parts. The duplication of parts for a multiplied effect has no patentable significance and is considered well within the purview and obvious to one of ordinary skill in the art. *St. Regis Paper Co. v. Bemis Co., Inc.* 193 USPQ 8, 11 (7th Cir. 1977).

Response to Arguments

5. Applicant's arguments filed October 23, 2008 have been fully considered but they are not persuasive.:

- a. Applicant argues Fisher fails to anticipate claims 9-11 because it discloses alternative forms for the shafts 18. However, regardless of whether Fisher discloses alternative structures, it does in fact disclose a drive shaft assembly comprising every limitation of the claims 9-11. It therefore anticipates the claims.
- b. Applicant did not address the anticipation of claims 9-11 by Schreiber.
- c. Applicant argues that the examiner attempted to overcome alleged shortcomings in Fisher by combining its teachings with that of Schreiber. However, no such attempt was made in the previous Office action or in this Office action.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Binda whose telephone number is (571) 272-7077. The examiner can normally be reached on M-F 9:30 am to 7:00 pm with alternate Fridays off. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Greg Binda/
Primary Examiner
Art Unit 3679